

Date

Kenneth B. Conerly, Jr.
Khan's Code and Standards, LLC
2628 Elder Street
New Orleans, Louisiana 70122

Re: Ethics Board Docket No. 2021-105

Dear Mr. Conerly:

The Louisiana Board of Ethics, at its April 9, 2021 meeting, considered your request for an advisory opinion as to whether you, Mario Anderson and/or Khan's Codes and Standards, LLC, owned by you and Mario Anderson, both former Mechanical Inspectors for the Safety and Permits Division with the City of New Orleans, may provide mechanical, gas, building and electrical inspections to third parties within two years of the termination of both your and Mr. Anderson's employment with the City of New Orleans.

FACTS PROVIDED

You stated that you and Mario Anderson were both employed as Mechanical Inspectors for the Mechanical Department under the Safety and Permits Division for the City of New Orleans. You stated that you terminated your employment on September 11, 2020. Mr. Anderson transferred, on November 29, 2019, from the Safety and Permits Division to the Property Management Department. Mr. Anderson is currently employed with the Property Management Department. The Property Management Department does not perform or have any jurisdiction or supervision over inspections.

As Mechanical Inspectors for the Mechanical Department of the Safety and Permits Division, you stated that both of you were tasked with conducting gas and mechanical inspections throughout the City of New Orleans.

You stated that shortly after you terminated your employment with the City of New Orleans, you and Mr. Anderson established Khan's Codes and Standards, LLC, a third-party inspection company to provide mechanical, gas, building and electrical inspections throughout the City of New Orleans. Once inspections are conducted, you stated the inspections will be submitted to the Safety and Permits Division for processing.

LAWS

La. R.S. 42:1121B provides no former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the governmental entity by which he was formerly employed, or for a period of two years following the termination of his public employment, render, any service which such former public employee had rendered to the agency

during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with which he was formerly employed.

La. R.S. 42:1121C provides that no legal entity in which a former public servant is an officer, director, trustee, partner, or employee shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such public servant at any time participated during his public service and involving the agency by which he was formerly employed or in which he formerly held office.

La. R.S. 42:1111C(2)(d) provides that no public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are: (d) Neither performed for nor compensated by any person or from any officer, director, agent, or employee of such person, if such public servant knows or reasonably should know that such person has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency, conducts operations or activities which are regulated by the public employee's agency; or has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

La. R.S. 42:1113A states no public servant, or a member of such a public servant's immediate family, or a legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

La. R.S. 42:1111E(1) provides that no public servant, and no legal entity of which such public servant is an officer, director, trustee, partner, or employee, or in which such public servant has a substantial economic interest, shall receive or agree to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with the agency of such public servant.

La. R.S. 42:1102 (23) defines "Transaction involving the governmental entity" to mean any proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other such particular matter which the public servant or former public servant of the governmental entity in question knows or should know: (a) Is, or will be, the subject of action by the governmental entity. (b) Is one to which the governmental entity is or will be a party. (c) Is one in which the governmental entity has a direct interest.

CONCLUSION

The Board concluded, and instructed me to inform you, that Section 1121B of the Code of Governmental Ethics would prohibit both you and Mario Anderson, for a period of two years from your respective dates of termination of employment from the Mechanical Department of the Safety and Permits Division with the City of New Orleans, from conducting **mechanical** and **gas inspections** for third-parties that will be submitted to the Safety and Permits Division for processing

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and in which either of you participated in while employed with the Safety and Permits Division and involving the City of New Orleans. Since neither of you performed building or electrical inspections, these inspections would not be prohibited during the two year period.

In addition, Section 1121C of the Code of Governmental Ethics would prohibit Khan's Codes and Standards, LLC, for a period of two years from your and Mr. Anderson's respective dates of termination of employment from the Mechanical Department of the Safety and Permits Division with the City of New Orleans, from conducting **mechanical and gas inspections** for third-parties that will be submitted to the Safety and Permits Division for processing and in which either of you participated in while employed with the Safety and Permits Division and involving the City of New Orleans. Since neither of you performed building or electrical inspections, these inspections would not be prohibited during the two year period.

Further, as Mr. Anderson is still employed with the City of New Orleans, the Board concluded, and instructed me to inform you, that Section 1111C(2)(d) of the Code of Governmental Ethics would not prohibit Mr. Anderson from providing compensated services to Kahn's Code and Standards, LLC while Kahn's Code and Standards has a business relationship with the Safety and Permits Division while Mr. Anderson is employed with the City of New Orleans since that business relationship is not with Mr. Anderson's agency, the Property Management Department.

Also, as Mr. Anderson is still employed with the City of New Orleans, the Board concluded, and instructed me to inform you, that Section 1113A will not prohibit Mr. Anderson and/or his company Kahn's Code and Standards, LLC from entering into transactions with the Safety and Permits Division of the City of New Orleans since the inspections being performed by Mr. Anderson and/or his company Kahn's Code and Standards, LLC are not under the supervision or jurisdiction of his agency, the Property Management Department.

The Board also concluded, and instructed me to inform you that Section 1113A of the Code of Governmental Ethics would prohibit Mr. Anderson, while he is employed with the Property Management Department for the City of New Orleans, from entering into any transactions or entering into any transactions on behalf of his clients that are under the supervision or jurisdiction of the Property Management Department.

The Board also concluded, and instructed me to inform you that Section 1111C(2)(d) of the Code of Governmental Ethics would prohibit Mr. Anderson, while he is employed with the Property Management Department for the City of New Orleans, from receiving any thing of economic value for services rendered to Kahn's Code and Standards if Kahn's Code and Standards has or seeks to have a contractual financial or business relationship with the Property Management Department.

Finally, the Board concluded, and instructed me to inform you that Section 1111E(1)(a) would prohibit both Mr. Anderson and Kahn's Code and Standards from assisting any third-parties in connection with a transaction or in connection in an appearance with a transaction with the Property Management Department while Mr. Anderson is employed with the Property Management Department for the City of New Orleans.

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This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Tracy M. Barker
For the Board

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.